

REMARKS

Entry of the Amendment Pursuant to 37 C.F.R. 1.116 filed on September 6, 2007, as well as this Preliminary Amendment, is respectfully requested before continued examination of the instant application.

The Final Office Action of July 6, 2007 had been received and carefully reviewed. It is submitted that, by this Amendment and the Amendment filed on September 6, 2007, all bases of rejection and objection are traversed and overcome. Upon entry of this Amendment, claims 1-6, 8-16 and 18-25 remain in the application. New claim 26 has been added in order to set forth an additional specific embodiment of Applicants' invention. Support for this new claim may be found throughout the specification as filed, at least at page 19, lines 1-3, page 18, lines 27-29 and page 20, lines 1-14, and page 20, lines 22-29. Reconsideration of the claims is respectfully requested.

Applicants refer the Examiner to all of the remarks/arguments presented in the After Final amendment dated September 6, 2007.

Further, in the advisory action of December 14, 2007, the Examiner states that independent claims 1, 5, 8, 21 and 22 require a recitation of "computer readable code" for determining a download status of the telematics unit and associated components. Furthermore, the Examiner appears to indicate that the specification as filed contains no support for "computer readable code", and thus may be subject to 35 U.S.C. § 112 rejections.

Applicants initially point out that claim 5 does not include "determining the download status", and as such, Applicants respectfully submit that claim 5 contains allowable subject matter and should not be subject to the arguments outlined by the Examiner in the Advisory Action.

Regarding claims 1, 8, 21 and 22, Applicants respectfully disagree that "computer readable code" must be recited in the determining step. There is no requirement of which Applicants are aware that a method claim must recite apparatus(es) by which a method is accomplished. Applicants have presented a fully enabling specification, and it is respectfully submitted that this is sufficient to support the claims as presented herein.

Still further, Applicants strongly disagree that “computer readable medium” is not enabled by the specification as filed. It is submitted that the specification as filed, at least from page 18, line 23 through page 20, line 29 provides support for “computer readable code”. For example, page 18, at lines 27-29, states that “the program stored in the computer usable medium comprises computer program code for executing the method steps described in FIGS. 4-6.” One of the method steps discussed in reference to Figs. 3 and 4 is determining the download status (see page 19, line 25 through page 20, line 29). More particularly, page 20, at lines 1-14, states that, “voice portal 333...provides interaction between a customer as well as vehicle client 320 and an application operating within application server 330 via a wireless carrier system to determine the download status of VCS application 390 and hence the download status of the telematics unit....” In light of this support, and the amendments to the claims in the previous amendment, Applicants submit that such claims are now in condition suitable for allowance.

Claims 8-10, 18-20, 22 and 24 had been objected to as being dependent upon a rejected base claim in the Final Office Action. The Examiner had indicated that these claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 8, 18 and 22 have been so rewritten. Claims 10, 12, 14, 16, 20, 23 and 24 have been amended to depend from one of independent claims 8, 18 or 22. As such, Applicants respectfully submit that claims 8, 18 and 22, and those claims depending ultimately therefrom, are now in a condition suitable for allowance.

Applicants note with appreciation the Examiner’s indication in the Final Office Action that claims 3-6, 13 and 15 were allowed.

In summary, claims 1-6, 8-16 and 18-25 remain in the application. New claim 26 has been added herein. It is submitted that, through this Amendment, Applicants’ invention as set forth in these claims is now in a condition suitable for allowance.

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Further and favorable consideration is requested. If the Examiner believes it would expedite prosecution of the above-identified application, he is invited to contact Applicants' Attorney at the below-listed telephone number.

Respectfully submitted,

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